**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA	)	
	)	
	)	
v.	)	Criminal No. 3:10-00163
	)	Judge Trauger
	)	
TIM ALLEN [4],	)	
ANTHONY BROOKS [5],	)	
KERRY PETTUS [8],	)	
AARON GOOCH [13],	)	
SHAWN HOWELL [23],	)	
KEAIRUS WILSON [27],	)	
MONTEZ HALL [28], and	)	
CEDRIC WOODS [29]	)	

O R D E R

The defendants listed above have filed motions for pretrial determination of the

admissibility of co-conspirator statements, to compel advance production of co-conspirator

statements and/or for a *Vinson-Enright* hearing (Docket Nos. 815, 821, 847, 858, 875, 876, 877,

881, 896), to which the government has filed a Consolidated Response (Docket No. 1008).

First, the court has already ordered that the statements of testifying co-conspirators be

produced two weeks in advance of trial, by January 31, 2012, and the government has agreed to

that early production. (Docket No. 612 at 3) Any earlier production of this material is not
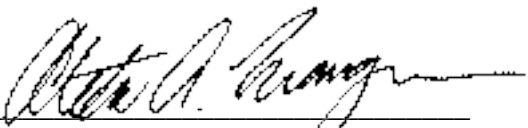
required and will not be ordered.

Second, the court has broad discretion in determining the admissiblity of co-conspirator

statements, and the Sixth Circuit does not require a mini-hearing in advance of trial on this issue.

In the interest of judicial economy, this court elects to admit co-conspirator statements subject to

later demonstration of their admissibility by a preponderance of the evidence. At the close of the

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government's case-in-chief, the court will make a finding as to whether the government has met its burden of proof by a preponderance of the evidence that a conspiracy existed, that the defendants were participants, and that the statements were made in the course and in furtherance of the conspiracy. The statements will be admitted subject to these defendants' continuing objection, which will not need to be reasserted at trial every time a co-conspirator statement is offered.

The defendants' motions listed above are **DENIED**.

It is so **ORDERED.**

Enter this 29th day of November 2011.

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ALETA A. TRAUGER
United States District Judge

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